

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

JHOAN PICHARDO,

Defendant.
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KIMBA M. WOOD, District Judge:

On May 18, 2020, the Court received Defendant's motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). On May 29, 2020, the Government informed the Court that the Bureau of Prisons ("BOP") has not received any request for compassionate release from Defendant.

Before moving for compassionate release in court, a defendant must first present a request to the Warden of the defendant's facility, asking that the BOP move for compassionate release on the defendant's behalf. Once the defendant has done so, the defendant may move for compassionate release in court after either (1) the BOP denies the defendant's request, and the defendant exhausts all administrative rights to appeal the BOP's denial, or (2) thirty days pass from the Warden's receipt of the defendant's initial request.¹ *See* 18 U.S.C. § 3582(c)(1)(A).

¹ In cases where a defendant is highly vulnerable to serious infection with COVID-19, the Court may equitably excuse a defendant from the exhaustion requirements of § 3582(c)(1)(A). *See, e.g., United States v. El-Hanafi*, Slip Op., 2020 WL 2538384, at *2 (S.D.N.Y. May 19, 2020) (Wood, J.). Due to Defendant's relative youth, and the stringent measures taken to control the COVID-19 pandemic at FCI Ft. Dix, the Court declines to waive exhaustion in this case.

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17-CR-512 (KMW)

ORDER

Therefore, the Court cannot consider Defendant's motion at this time. Should Defendant wish to pursue his claim, he should submit a request for compassionate release to the Warden of FCI Ft. Dix, and then follow the exhaustion process set forth in 18 U.S.C. § 3582(c)(1)(A).

The Government is ordered to inform the Court if the BOP receives a request for compassionate release from this Defendant, and to update the Court if the BOP takes action on any such request.

The Clerk of Court is respectfully directed to mail a copy of this Order to Defendant at the following address:

Jhoan Pichardo
#76052-054
Fort Dix Federal Correctional Institution Satellite Camp
P.O. Box 2000
Joint Base MDL, NJ 08640

SO ORDERED.

Dated: New York, New York
June 2, 2020

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge